FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

NAGPUR BENCH, NAGPUR

INCOME TAX APPLICATION NO.29 OF 1992

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr.A.S. Jaiswal, Advocate for the applicant.

None for the respondent.

CORAM : J.P. DEVADHAR &
B.P. DHARMADHIKARI, JJ.

DATED : 20TH MARCH, 2007.

P.C. :

1. None for the respondent, though served.

2. This application was admitted on 15th April, 1998 on the following questions of law.

"1. Whether on the facts and in the circumstances of the case, the ITAT was correct in cancelling the penalty levied by the Assessing Officer u/s.271(1)(c) of the Act and subsequently sustained by the CIT (Appeals), Nagpur ?

2. Whether on the facts and in the circumstances of the case, the ITAT was

correct in holding that there was neither any concealment made by the assessee nor there was any furnishing of in-accurate particulars ?

3. This application pertains to AY 1979-80. In this case, penalty levied u/s.271(1)(c) of the Act was upheld by the CIT (A). The Tribunal by its order dated 22nd November, 1991 set aside the penalty by following its decision in the case of petitioner for AY 1977-78. The CIT (A) in his order has held that the facts relating to AY 1977-78 are somewhat different wherein the assessee had attached a note to the balance-sheet regarding surface rent payable in the year. This fact has not been considered by the Tribunal in the impugned order. Hence, this application is allowed.

4. The Tribunal is directed to forward statement of case as expeditiously as possible. Application stands disposed of.

Judge Judge.

/agk